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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,340

07/24/2006

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COR021 P306B

8838

277 7590 06/23/2010  
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EXAMINER

JACKSON, BRANDON LEE

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

06/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,340	<b>Applicant(s)</b> MARCOUX ET AL.	
	<b>Examiner</b> BRANDON JACKSON	<b>Art Unit</b> 3772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 71-107 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 71, 72 and 90 is/are allowed.
- 6) ☒ Claim(s) 73-89 and 91-107 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office Action is in response to amendments/arguments filed 1/4/2010.

Currently, claims 71-107 are pending in the instant application.

#### ***Response to Arguments***

Applicant's arguments filed 1/4/2010 have been fully considered.

Applicant's arguments with respect to claim 72 are persuasive, the prior art of record does not teach a handle that defines the entire peripheral edge of the dressing, wherein the handle has discrete openings that do not connect to the outer peripheral edges of the handle.

Applicant's arguments with respect to claim 75 are not persuasive. Applicant argues Heinecke does not teach a first cut through the handle connecting the outer edge of the handle to the inner edge, or a plurality of second cuts that are not connected to either the outer peripheral edge of the inner edge. However, Heinecke '432 teaches a dressing (210) comprising first cut (25) and a plurality of discrete openings (230, 232, 234, 236). The plurality of openings (230, 232, 234, 236) do not contact the peripheral edge of the handle when the peripheral edge of the handle is defined as the region furthest to the right of the handle.

Applicant argues Heinecke does not teach the handle being electrostatically adhered to the second side of the polymeric film without adhesive material. However, since the handle is made of paper and the juxtaposed layer is a polymer film, there is an automatic electrostatic attraction. Heinecke does teach the use of low adhesion

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adhesive, but the device obviously would still function without the adhesive, since the adhesive is there to reinforce the already existent attraction between the paper and the film.

With respect to claim 95, Applicant argues it is unreasonable to assert that the slits (230, 232, 234, 236) are the first cut and a plurality of second cuts. However, the first cut is 250 and the plurality of second cuts are 230, 232, 234, 236.

With respect to claim 73, Applicant argues the Dozier handle (20) does not project into the window. However, Fig. 4 shows a tab that would project into the window when handle is down.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 75-83, 89, and 91-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke et al. (US Patent 5,738,642) in view of Heinecke et al. (US Patent 6,436,432). Heinecke discloses a wound dressing (210) comprising a handle (212), a polymeric film (214) having first and second sides, wherein at least a portions of the polymeric film (214) is coated with an adhesive layer (216) on the first side, and the handle (212) is adhered to the second side of the polymeric film (214). The continuity of contact between the handle and the second surface of the polymeric film (214) is interrupted at a portion (250) in the vicinity of a portion of the edge of the handle (212), which is a slot, of the edge of the handle (212). The handle (212) is textured by slots (250) through the handle (212). The slots (250) are fully capable of being oriented in a zig-zag pattern (i.e. diagonally) (col. 8, lines 14-17) relative to the edge of the handle (212), or parallel (col. 8, lines 5-7) to the handle (212). The texture is debossed by the die cuts made in the handle (212) in order to make the slot (250). The handle (212) is made of paper (col. 6, lines 10-13), which is relatively rougher than a polymeric film (214) and can be adhered (col. 6, lines 7-9) to the polymeric film (214). When the handle (212) is made of a paper (col. 6, lines 10-13) then there would be an electrostatic attraction between the handle (212) and the polymeric film (214). The handle (212) comprises a conductive layer, which is the low adhesion coating (col. 6, lines 30-46), and a non-conductive layer, which is the polymeric material (col. 6, lines 10-13). Heinecke fails to disclose a plurality of discrete opening in the handle. However, Heinecke '432 teaches a dressing (210) comprising a plurality of discrete openings (230, 232, 234, 236). The plurality of openings (230, 232, 234, 236) do not

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contact the peripheral edge of the handle when the peripheral edge of the handle is defined as the region furthest to the right of the handle. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Heinecke device with a plurality of discrete openings, as taught by Heinecke '432, in order to allow piecemeal application to ensure the device is applied in the correct alignment.

With respect to claims 75, 82 and 96, the Heinecke'642/Heinecke'432 device discloses the use of adhesive between the layers; however, it is well known in the art that the polymer film can be attached to the paper handle by a mere electrostatic connection, similar to the storage of transparent, polymer overhead sheets and paper being held together before use of transparent polymer sheet on an overhead machine. In addition, the plurality of discrete opening (230, 232, 234, 236) do not contact the inner edge when the inner edge is defined as the portion of the inner circumference of the handle furthest to the right.

With respect to claim 76, Heinecke '642 discloses the cuts may be linear (col. 8, lines 5-6).

With respect to claims 77, 104-105 and 107, Heinecke '642 discloses the right and leftmost portions of the outer and inner edges of the handle (212) are parallel to one another. The linear cut (col. 8, lines 5-6) obviously can be at an angle between 130 and 150 degrees relative to the outer peripheral edge when the linear cut (250) is made in a diagonal manner.

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With respect to claims 78 and 102-103, the plurality of linear cuts (230, 232, 234, 236) could be obviously be in a linear manner (col. 8, lines 5-6). Heineke' 432 also discloses the plurality of linear cuts (230, 232, 234, 236) can be parallel to one another (fig. 5).

With respect to claims 80, 93-94, 100, the handle (212) is generally ring shaped because is circles about an opening (215) except at the cuts (230, 232, 234, 236). The opening (215) is centered within the handle (212).

With respect to claim 81, the handle (212) is one-piece.

With respect to claim 83, the opening an have semi-circular (230, 232, 234, 236) shape.

Claims 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke et al. (US Patent 5,738,642) in view of Dozier et al. (US Patent 7,135,606). Heinecke substantially discloses the claimed invention; see rejection to claims 1 and 71 above. Heinecke fails to disclose a tab on the handle that projects into the window. Dozier teaches a dressing (10) comprising a handle (20) adhered (18) to a layer (14) with a tab (21) projecting inward (fig. 4). The tab (21) is substantially less aggressively adhered to the layer below than the rest of the handle (20), because adhesive is not disposed on the tab. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the handle with the tab, as taught by Dozier, in order to allow the user to easily grasp the handle for removal.

Claims 84-88 rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke'642/Heinecke'432 as applied to claim 75 above, and further in view of Dozier et al. (US Patent 7,135,606). Heinecke'642/Heinecke'432 fails to disclose a tab on the handle that projects into the window. Dozier teaches a dressing (10) comprising a handle (20) adhered (18) to a layer (14) with a tab (21) projecting inward (fig. 4). The tab (21) is substantially less aggressively adhered to the layer below than the rest of the handle (20), because adhesive is not disposed on the tab. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the handle with the tab, as taught by Dozier, in order to allow the user to easily grasp the handle for removal.

With respect to claims 85 and 86, the Dozier does not teach the tab (21) has generally parallel edges, however, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tab (21) to have straight, parallel edges, since change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

With respect to claims 87 and 88, it would have been obvious to one of ordinary skill in the art for the first cut and one of the edges of the tab to be collinear, since the orientation of the tab relative to the first cut does not provide an advantage or unexpected results. Therefore, it is a mere design choice and it requires only routine skill in the art to make a change in form or shape, absent any showing of unexpected



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results. *In re Dailey et al.*, 149 USPQ 47. The first cut would have to be linear in order to be collinear with the straight edges of the tab.

### ***Allowable Subject Matter***

Claims 71-72 and 90 allowed over the prior art of record. The prior art does not fairly teach or suggest a plurality of deformation forming a plurality of regions wherein the handle is spaced apart from the film to define a plurality of tunnels; or a conductive metal layer. In addition, the prior art of record does not fairly teach or suggest a handle that defines the entire peripheral edge of the dressing, wherein the handle has discrete openings that do not connect to the outer peripheral edges of the handle.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON JACKSON whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon Jackson/  
Examiner, Art Unit 3772

/BLJ/

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772